

ELECTRONICALLY FILED

April 18, 2006

STUTMAN, TREISTER & GLATT, P.C.
 FRANK A. MEROLA
 (CA State Bar No. 136934)
 EVE H. KARASIK
 (CA State Bar No. 155356)
 ANDREW M. PARLEN
 (CA State Bar No. 230429),
 1901 Avenue of the Stars, 12th Floor
 Los Angeles, California 90067
 Telephone: (310) 228-5600
 Facsimile: (310) 228-5788
 Email: fmerola@stutman.com
ekarasik@stutman.com
aparden@stutman.com

SHEA & CARLYON, LTD.
 JAMES PATRICK SHEA
 (Nevada State Bar No. 000405)
 CANDACE C. CARLYON
 (Nevada State Bar No. 002666)
 SHLOMO S. SHERMAN
 (Nevada State Bar No. 009688)
 228 South Fourth Street, First Floor
 Las Vegas, Nevada 89101
 Telephone: (702) 471-7432
 Facsimile: (702) 471-7435
 Email: jshea@sheacarlyon.com
ccarlyon@sheacarlyon.com
ssherman@sheacarlyon.com

Counsel for the Official Committee of
 Equity Security Holders of USA Capital First Trust Deed Fund, LLC

**UNITED STATES BANKRUPTCY COURT
 DISTRICT OF NEVADA**

In re:	)	BK-S-06-10725-LBR
USA COMMERCIAL MORTGAGE COMPANY,	)	Chapter 11
Debtor.)	
In re:	)	BK-S-06-10726-LBR
USA CAPITAL REALTY ADVISORS, LLC,	)	Chapter 11
Debtor.)	
In re:	)	BK-S-06-10727-LBR
USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC,	)	Chapter 11
Debtor.)	
In re:	)	BK-S-06-10728-LBR
USA CAPITAL FIRST TRUST DEED FUND, LLC,	)	Chapter 11
Debtor.)	
In re:	)	BK-S-06-10729-LBR
USA SECURITIES, LLC,	)	Chapter 11
Debtor.)	

Affects

- ☐ All Debtors
☐ USA Commercial Mortgage Co.
☒ USA Securities, LLC
☐ USA Capital Realty Advisors, LLC
☐ USA Capital Diversified Trust Deed
☒ USA First Trust Deed Fund, LLC

Date: April 26, 2007
 Time: 9:30 a.m.

**LIMITED RESPONSE OF THE OFFICIAL COMMITTEE OF EQUITY SECURITY HOLDERS
 OF USA CAPITAL FIRST TRUST DEED FUND, LLC TO OMNIBUS OBJECTION OF USA
 SECURITIES, LLC TO CERTAIN CLAIMS (AFFECTS DEBTORS USA SECURITIES, LLC
 AND USA CAPITAL FIRST TRUST DEED FUND, LLC)**

1 **TO THE HONORABLE LINDA B. RIEGLE, UNITED STATES BANKRUPTCY JUDGE:**

2 In response to the "Omnibus Objection of USA Securities, LLC to Certain
3 Claims," (the "Objection") [docket no. 3021], the Official Committee of Equity Security Holders
4 of USA Capital First Trust Deed Fund, LLC (the "FTDF Committee") hereby submits a limited
5 response as follows:

6 **I.**

7 **PURPOSE OF RESPONSE**

8 1. In the Objection, USA Securities, LLC ("USA Securities") objects to
9 thirty (30) proofs of claim filed against USA Securities on the grounds that "they are in reality
10 claims against either USACM or one of the Funds, and which were also separately filed as
11 claims against those Debtors (the 'Misfiled Claims')." Objection, ¶ 9.

12 2. According to Exhibit A to the Objection, three of the Misfiled Claims are
13 claims against USA Capital First Trust Deed Fund, LLC ("FTDF") and therefore should be
14 disallowed in their entirety against USA Securities. Specifically, USA Securities requests that
15 claim number 10729-00004 filed by Frieda Moon & Sharon C. Van Ert in the amount of
16 \$35,583.34, claim number 10729-00005 filed by Frieda Moon & Sharon C. Van Ert ("Moon &
17 Van Ert") in the amount of \$17,538.18 (together with claim number 10729-00004, the "Moon &
18 Van Ert Claims"), and claim number 10729-00034 filed by Houghton Dental Corp PSP FBO
19 Geraldine Pearl Houghton ("Houghton") in the amount of \$100,000.00 (the "Houghton Claim")
20 be disallowed in their entirety against USA Securities. With respect to each of these claims,
21 Exhibit A to the Objection states that, "Claim is against FTDF and claimant has already filed the
22 same claim against FTDF."

23 3. The FTDF Committee submits this response (a) to inform the Court that
24 the FTDF Committee has already objected to claims in the same amount filed against FTDF by
25 Moon & Van Ert, and that such objections have already been ruled upon and sustained by the
26 Court; (b) to inform the Court that the Houghton Claim has been withdrawn pursuant to a
27 stipulation entered into between the FTDF Committee and Houghton; and (c) to ensure that any
28 order sustaining the Objection (i) does not deem the Moon & Van Ert Claims or the Houghton

1 Claim to have been filed against FTDF and (ii) does not conflict with the prior orders of the
 2 Court sustaining the FTDF Committee's objections to claims filed by Moon & Van Ert.

3 II.

4 RELEVANT PROOFS OF CLAIM FILED AGAINST FTDF

5 A. Objections to Claims Filed by Moon & Van Ert

6 4. On August 1, 2006, the FTDF filed the "Omnibus Objection of the
 7 Official Committee of Equity Security Holders of USA Capital First Trust Deed Fund, LLC to
 8 Claims Based on Prepetition Equity Security Interests of USA Capital First Trust Deed Fund,
 9 LLC" [docket no. 1066] (the "First Claim on Equity Objection"). Among the claims subject to
 10 the First Claim on Equity Objection were claim number 10728-00006 and claim number 10728-
 11 00007, both of which were filed by Moon & Van Ert in the respective amounts of \$35,583.34
 12 and \$17,538.18. The FTDF Committee requested that such claims be reclassified as proofs of
 13 interest in FTDF as the claims were based upon membership interests in FTDF. On September
 14 14, 2006, the Court entered an order granting the relief requested [docket no. 1278].

15 5. Claim number 10728-00006 (filed against FTDF and subsequently
 16 reclassified as a proof of interest in FTDF) is identical to claim number 10729-00004 (filed
 17 against USA Securities), which is the subject of the Objection. True and correct copies of claim
 18 number 10728-00006 and claim number 10729-00004 are attached hereto as Exhibits "1" and
 19 "2," respectively.

20 6. Claim number 10728-00007 (filed against FTDF and subsequently
 21 reclassified as a proof of interest in FTDF) is identical to claim number 10729-00005 (filed
 22 against USA Securities), which is the subject of the Objection. True and correct copies of claim
 23 number 10728-00007 and claim number 10729-00005 are attached hereto as Exhibits "3" and
 24 "4," respectively.

25 7. Because claims identical to the Moon & Van Ert Claims have been filed
 26 against FTDF and have been reclassified as proofs of interest in FTDF pursuant to order of this
 27 Court, in ruling upon the Objection, the Court should not deem the Moon & Van Ert Claims to
 28 have been filed against FTDF.

1 **B. Stipulation re Claim Filed by Houghton**

2 8. As set forth above, Exhibit A to the Objection states that the Houghton
3 Claim should be disallowed in its entirety against USA Securities as it is, in actuality, a claim
4 against FTDF. Exhibit A to the Objection also states that Houghton filed the same claim against
5 FTDF. In actuality, Houghton did not file a proof of claim against FTDF. Rather, Houghton
6 intended to file the Houghton Claim against FTDF (the proof of claim lists FTDF as the relevant
7 debtor) but it was mistakenly entered on the USA Securities claims register because Houghton
8 made a typographical error with respect to the case number to which the Houghton Claim
9 related.

10 9. After meeting and conferring, Houghton and the FTDF Committee have
11 entered into a stipulation withdrawing the Houghton Claim against USA Securities and FTDF
12 with prejudice. That stipulation was filed on April 16, 2007 [docket no. 3465]. The proposed
13 order approving that stipulation will be lodged with this Court upon the approval of the Office of
14 the United States Trustee. Accordingly, the Objection is moot as to the Houghton Claim.

15 **WHEREFORE**, the FTDF Committee requests that in ruling on the Objection,
16 the Court (i) not deem the Moon & Van Ert Claims or the Houghton Claim to have been filed
17 against FTDF; and (ii) not enter an order inconsistent with the orders sustaining the FTDF
18 Committee's objections to claim numbers 10728-00006 and 10728-00007 filed by Moon & Van
19 Ert against FTDF, which claims have already been reclassified as proofs of interest in the FTDF
20 case.

21 Respectfully submitted this 18 day of April, 2007.

22 
23 _____

24 FRANK A. MEROLA (CA State Bar No. 136934),
25 EVE H. KARASIK (CA State Bar No. 155356), and
26 ANDREW M. PARLEN (CA State Bar No. 230429), Members of
27 STUTMAN, TREISTER & GLATT, P.C.
1901 Avenue of the Stars, 12th Floor
28 Los Angeles, CA 90067
Telephone: (310) 228-5600

and

1 CANDACE C. CARLYON
2 Shea & Carlyon, Ltd.
3 228 S. Fourth Street, First Floor
4 Las Vegas, NV 89101
Telephone: (702) 471-7432

5 COUNSEL FOR THE
6 OFFICIAL COMMITTEE OF EQUITY SECURITY HOLDERS
OF USA CAPITAL FIRST TRUST DEED FUND, LLC
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28